IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

Date of decision : October 27, 2006

State of Punjab ....Appellant

versus

Ramesh Kumar ....Respondent

Coram: Hon'ble Mr. Justice Virender Singh
Hon'ble Mr. Justice A.N. Jindal

Present : Mr. K.S.Boparai, Addl. A.G. Punjab

Virender Singh, J.

Respondent Ramesh Kumar was booked in a case FIR No. 20 dated 8.7.2004, registered at Police Station Vigilance Bureau, Bathinda under sections 7 and 13(2) of the Prevention of Corruption Act (for short 'the Act'). He has now earned acquittal vide impugned judgment of learned Special Judge, Bathinda dated 8.4.2006. Aggrieved by the same, State of Punjab has preferred the instant appeal along with an application bearing Criminal Misc. No. 336-MA of 2006 under section 378(3) of the Code of Criminal Procedure for grant of leave to appeal.

We have heard Mr. K.S.Boparai, learned State counsel and with his assistance gone through the entire impugned judgment.

Admitted position is that the complainant and the shadow witness have not supported the case of the prosecution.

The learned trial court while discarding the case of the prosecution on other aspects also have entered into a detailed discussion in para no. 16 and we have gone through the same. Mr. Boparai has not been able to pin point any flaw in the finding arrived at by the learned trial court.

Once the star witnesses have not supported the case of the prosecution, the necessary ingredients of demand and acceptance are not proved. Therefore, the presumption against the accused as envisaged under the 'Act' is weakened and the accused is not supposed to rebut the presumption with the same standard of proof as required by the prosecution for recording a finding of conviction. Therefore, the mere fact that the money is recovered from the appellant cannot form the basis of conviction.

Finding no substantial or compelling reasons for disturbing the view already taken by the learned trial court, we hereby decline to grant leave to appeal and dismiss Criminal Misc. No. 336-MA of 2006 is hereby dismissed.

(Virender Singh)
Judge

(A.N. Jindal)
Judge

October 27, 2006
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